

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:05cr79

UNITED STATES OF AMERICA

)

)

vs.

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)

ALVIN EUGENE McSWAIN

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ORDER

THIS MATTER is before the Court upon motion of the defendant for a reduction of sentence pursuant to Rule 35 of the Federal Rules of Criminal Procedure. (Doc. No. 36).

In the motion, the defendant asks the Court to re-sentence him to the low-end of the advisory guideline range based on the facts of his case and the hardship his incarceration causes to his family. (*Id.*). Rule 35 of the Federal Rules of Criminal Procedure allows the Court to correct a sentence within seven days of sentencing for clear error or to reduce a sentence upon the government's motion based on substantial assistance within one year of sentencing. The Court finds that neither circumstance is applicable in this case.

IT IS, THEREFORE, ORDERED that the defendant's motion is **DENIED**.

Signed: April 24, 2009



Robert J. Conrad, Jr.
Chief United States District Judge

